THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18857 of 1996

ORAL ORDER:

This writ petition is filed seeking Certiorari to call for the records relating to I.D.No.90 of 1993 dated 16.6.1995 on the file of the second respondent and quash the same as illegal and arbitrary.

It appears, first respondent-workman was removed from service after conducting detailed enquiry into the charges levelled against him. Aggrieved by the same, workman raised a dispute under Section 2A(2) of the Industrial Disputes Act, 1947 before the second respondent-Labour Court. It is the case of the workman that he was appointed as Conductor on 8.11.1998 on daily wage basis and he had clean record of service. The sum and substance of the charge seems to be that when a check was made on 22.9.1992, some excess cash was found in the bus cash, therefore, the petitioner was removed from service, which according to the petitioner is illegal and arbitrary since the said amount was meant to refund to the passengers.

The petitioner-management filed a detailed counter stating that the enquiry was properly held and the petitioner was removed from service for committing serious cash and ticketing irregularities. It was stated that the action taken against the petitioner in removing him from service was proportionate to the gravity of misconduct alleged against him.

On the basis of the record and other material made available before the second respondent, the second respondent has taken into consideration of the acknowledgement produced from K.Krishna and A.Srinivas claiming back the amount. The said K.Krishna was also examined before the Enquiry Officer who said to have received back

the amount and the said statement of K.Krishna probabalise the workman's version. It is clear that the passengers have forgotten to take back the cash and consequently it revealed that the workman couldn't be solely blamed for finding excess cash. However, failure on the part of the workman to sign the private cash column ought not to have taken seriously, therefore the second respondent-Labour Court came to the conclusion that the charges are trivial in nature and therefore, the workman is entitled to reinstatement, continuity of service, back wages and attendant benefits while withholding one increment by way of penalty.

Aggrieved by the same, petitioner-management filed the present writ petition stating that while the first respondent-workman was conducting Bus No.AAZ-7290 on 22.9.1992 on route Sirikonda-Bheemgal, a check was exercised by the checking officials at stage No.7 at about 15.30 hrs. and detected some cash and ticket irregularities. A charge memo was issued to the first respondent and he submitted his spot explanation. Since the explanation submitted by him was not found to be satisfactory, a detailed enquiry was conducted and since the charges were proved in full, a show cause notice was issued to the petitioner and thereafter he was removed from service. The second respondent-Labour Court did not appreciate the facts and circumstances of the case properly and thus, erred in passing award directing the petitioner management to reinstate the workman with continuity of service, back wages and other attendant benefits.

This Court, while admitting the writ petition on 9.9.1996, granted interim stay as prayed for on condition of petitioner depositing 1/4th of the back wages within six weeks from that date. It was further made clear that as the respondent was already reinstated even before filing

the writ petition, there would not be any stay with regard to reinstatement.

The charges made against the petitioner are as follows:

1. For having had an amount of Rs.105.75 ps. excess in your bus cash while you were conducting the vehicle No.AAZ 7290 on the route Sirikonda-Bheemgal on 22.9.1992 which constitutes misconduct under Regulation No.28(x) (xxiv) (xxxi) and (xxxii) of APSRTC Employees (Conduct) Regulation, 1963.
2. For having failed to sign at private cash column on the statistical return No.1885056 while conducting on the vehicle No.AAZ 7290 on the route Sirikonda-Bheemgal vide Regulation No.28(xvi) (xxi) of APSRTC Employees (Conduct) Regulation, 1963.

In the affidavit filed in support of the writ petition, it is categorically asserted that the first respondent was appointed as Conductor with effect from 8.11.1988 on daily wage basis. He is bereft of clean record of service. He was imposed with punishment for having been involved in serious cash and ticket irregularities. He was censured once, his annual increments deferred once and he was also imposed with fine once and he was finally removed from service. These, all would show that the service of the petitioner was not clean, may be the same was not brought to the notice of the Labour Court for the purpose of its consideration.

In the facts and circumstances of the case, I am of the opinion that though the charges are not so serious requiring the management to pass order of removal from service, the Labour Court while exercising its power under Section 11-A of the Industrial Disputes Act, 1947 could not have granted relief as sought for by the respondent/workman, except with-holding one increment by way of penalty. There are no reasons as to how the respondent-workman was entitled to full back wages. I am of the opinion that the award passed

by the Labour Court is liable to be modified to the following effect.

In the result, award is passed directing the petitioner-management to reinstate the respondent-workman with continuity of service,

attendant benefits, but with half of back wages while withholding one increment by way of penalty.

With the above modification, the writ petition is disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 5.12.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18857 of 1996

5.12.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18857 of 1996

Date: 5th December, 2006

Between:

The Depot Manager, APSRTC,
Armoor Depot, Nizamabad district.

.. Petitioner

And

U.Gangadhar & another.

.. Respondents